

EXHIBIT 6

1 RANDALL S. LUSKEY (SBN: 240915)
rluskey@paulweiss.com
2 **PAUL, WEISS, RIFKIND, WHARTON**
& GARRISON LLP
3 535 Mission Street, 24th Floor
San Francisco, CA 94105
4 Telephone: (628) 432-5100
Facsimile: (628) 232-3101

5 ROBERT ATKINS (*Pro Hac Vice* admitted)
ratkins@paulweiss.com
6 CAITLIN E. GRUSAUSKAS (*Pro Hac Vice* admitted)
cgrusauskas@paulweiss.com
7 ANDREA M. KELLER (*Pro Hac Vice* admitted)
akeller@paulweiss.com
8 **PAUL, WEISS, RIFKIND, WHARTON**
& GARRISON LLP
9 1285 Avenue of the Americas
New York, NY 10019
10 Telephone: (212) 373-3000
Facsimile: (212) 757-3990

12 *Attorneys for Defendants*
UBER TECHNOLOGIES, INC.;
13 RASIER, LLC; and RASIER-CA, LLC

14 [Additional Counsel Listed on Signature Page]
15

16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

20 IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

22 This Document Relates to:

23 ALL ACTIONS

Case No. 3:23-md-03084-CRB

DEFENDANTS' RESPONSE TO
PLAINTIFFS' MAY 20 NOTICE OF
CLAWBACK CHALLENGE

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

1 **INTRODUCTION**

2 Defendants Uber Technologies, Inc., Rasier, LLC, and Rasier-CA, LLC (collectively, “Uber”),
 3 respond to Plaintiffs’ Notice of Clawback Challenge sent on May 20, 2024, concerning the following
 4 documents (the “Privileged Documents”) that Uber inadvertently produced:

5 Bates number	6 Ending Bates number	7 Privilege Log designation in prior litigation
8 UBER-MDL3084-000093375	9 UBER-MDL3084-000093384	10 PRLog000262
11 UBER-MDL3084-000093385	12 UBER-MDL3084-000093390	13 PRLog000420
14 UBER-MDL3084-000093391	15 UBER-MDL3084-000093396	16 PRLog000421
17 UBER-MDL3084-000093397	18 UBER-MDL3084-000093420	19 PRLog000480
20 UBER-MDL3084-000093421	21 UBER-MDL3084-000093431	22 PRLog000489

23 As a threshold issue, the Privileged Documents were inadvertently produced by Uber on
 24 March 8, 2024, when inadvertent disclosures were governed by the Protective Order (ECF 176). The
 25 inadvertent production occurred before the Court entered PTO 14 on April 4, 2024. To the extent
 26 PTO 14 procedures apply to this production, Uber has substantially complied. Uber has produced slip
 27 sheets and a privilege log for the Privileged Documents pursuant to PTO 14.

28 Uber has made reasonable efforts to designate for protection the documents (and parts of
 29 documents) that are privileged. As more fully explained below, the Privileged Documents are not
 30 required to be produced by PTO 5 and the asserted legal privileges apply to the documents in whole.
 31 Plaintiffs also failed to comply with PTO 14.

32 A. **PLAINTIFFS’ NOTICE OF CLAWBACK CHALLENGE IS INSUFFICIENT**
 33 **PURSUANT TO PTO 14**

34 Uber also notes that Plaintiffs’ Notice of Clawback Challenge is insufficient pursuant to the
 35 requirements of PTO 14. It does not “provide the reason for said disagreement.” PTO 14 ¶ 6, ECF
 36 396, at 2. Rather, Plaintiffs’ letter merely states that the “reasons asserted for privilege in [Uber’s]
 37 letter are insufficient.” Vague statements are insufficient, especially where, as here the Privileged

1 Documents contain conspicuous headings and markers indicating the privileges asserted. As such,
 2 Plaintiffs failed to comply with PTO 14.

3 Plaintiffs' Notice of Clawback Challenge confirms that Plaintiffs have sequestered the
 4 Privileged Documents. Uber reserves the right to seek discovery on Plaintiffs' efforts to sequester the
 5 Privileged Documents and any work product and comply with PTO 14, including the audit logs for
 6 who has viewed the Privileged Documents following receipt of the Clawback Notice. PTO 14 ¶ 9.

7 **B. BASIS FOR CLAWING BACK PRIVILEGED DOCUMENTS**

8 The Privileged Documents were inadvertently produced, and they should be returned in whole,
 9 because those documents are not subject to PTO 5 and they contain attorney-client communications
 10 and attorney work product.

11 **1. The Privileged Documents Were Not Produced in a Prior Litigation, and Thus,**
 12 **are Not Subject to PTO 5.**

13 PTO 5 only requires that Uber produce "documents Defendants *produced* in any other Uber
 14 sexual assault cases." § 6C, ECF 175, at 4. Documents that were not produced are not subject to
 15 PTO 5. Here, all five documents were on Uber's privilege log in the underlying case, *Jane Doe v. UTI*
 16 (Case No. 2020-67824 (Harris Cnty. D. Ct. Tex.)) (attached as Ex. A), and were never produced by
 17 Uber in that state court litigation.

18 The Privileged Documents bear a conspicuous Bates label that identifies them as part of the
 19 *Doe* privilege log, numbers 262, 420, 421, 480, and 489. Those appear on the attached exhibit showing
 20 Uber's privilege log and their numbering. Ex. A, at 5. Next to each document, the *Doe* privilege log
 21 states that "Document has not been produced." *Id.* Those documents were never produced because
 22 either (1) the Court upheld the privilege designation for the whole document at an August 21, 2023
 23 hearing, or (2) the case settled the next month and no further production occurred. As the hearing
 24 transcript shows, the court in the *Doe* case reviewed PRLOG000262, 420, 421, and 480 *in camera* and
 25 sustained Uber's assertions of privilege. Ex. B, Aug. 21 Hear'g Tr. at 18, 25, 26. The remaining
 26 document, PRLOG000489, was also not subject to an order compelling its production before the case
 27 settled the next month. Given the Privileged Documents were never produced in a prior litigation,

1 they are not subject to PTO 5. Plaintiffs are not entitled to these documents and they must be destroyed
 2 or returned. Plaintiffs' clawback challenge is without merit.

3 **2. The Documents are Protected by Attorney Client Privilege; Thus Should be**
 4 **Clawedback.**

5 The Privilege Documents contain attorney-client communications and attorney work product;
 6 thus are legally protected by privilege from disclosure. In addition, in *Jane Doe v. UTI* (Case No.
 7 2020-67824 (Harris Cnty. D. Ct. Tex.)), the trial court sustained Uber's asserted privilege objections
 8 as to these documents when challenged. Ex. B, Aug. 21 Hear'g Tr. at 18, 25, 26.

9 **UBER-MDL3084-000093375 (PRLOG000262).**

10 This document is attorney-client privileged. It is an internal email communication between
 11 Uber employees and Uber's legal counsel, Scott Binnings, Senior Counsel of Safety; Aaron Brand,
 12 Senior Counsel of Regulatory, and Lisa Tse, Counsel of Regulatory. Notably emails sent to and from
 13 legal counsel bear the notations "PRIVILEGED & CONFIDENTIAL" and "AC Privileged." The
 14 March 14, 2017 email communication shows that it is part of an ongoing discussion between Uber
 15 employees and Uber's legal counsel about the internal policies, including "Zero Tolerance," and
 16 seeking counsel's insight, guidance, and review especially as it relates to ongoing legal issues for
 17 Uber. The "Zero Tolerance Policy" email contains correspondence from Uber's in-house legal
 18 counsel to other Uber employees detailing counsel's impressions and thoughts and providing advice
 19 (including recommendations) with respect to the proposed policy. Ex. C, Baker Declaration, *Jane Doe*
 20 v. *UTI* (Case No. 2020-67824 (Harris Cnty. D. Ct. Tex. Apr. 28, 2023)). Moreover, even when the
 21 email chain was forwarded within the company to other Uber employees, the internal discussion
 22 continued debate commentary based recommendations by legal counsel.

23 This document is indisputably protected by attorney-client privilege. Even the trial court in
 24 *Jane Doe v. UTI* had recognized "that the content, the substance of this is privileged," Ex. B, at 20,
 25 and upholding Uber's privilege claim, *id.* at 25. As such, Plaintiffs have no basis to challenge the
 26 clawback.

1 UBER-MDL3084-000093385(PRLOG000420) &2 UBER-MDL3084-000093391 (PRLOG000421).

3 These two documents have significant overlap, as only the most recent email in time is
 4 different, and will be treated together. Both documents are attorney-client privileged and attorney
 5 work product privileged. These email chains, subject line “Re:[Review Requested] Sexual
 6 Misconduct Policy & Standard,” seek legal advice from Uber’s in-house counsel which was provided
 7 to other Uber employees with counsel’s thoughts, impressions, and advice regarding proposed safety
 8 policies. Ex. D, Gibbons Declaration, *Jane Doe v. UTI* (Case No. 2020-67824 (Harris Cnty. D. Ct.
 9 Tex. Apr. 28, 2023)).

10 Specifically, Uber’s in house legal counsel, Maureen Frangopoulos, Senior Director of Safety
 11 & Insurance in August 2019, responded to the email thread and labeled it “AC Privileged and
 12 Confidential Attorney Work Product.” In the email, she advises on the effect Uber employees’
 13 proposals may have on pending litigation and providing a thorough review and the legal effects of the
 14 proposed policy. The later-in-time emails discuss relevant items counsel opined on. Similar to above,
 15 when challenged in *Jane Doe v. UTI*, the trial court stated “420 and 421, I’m going to sustain the
 16 privilege claim.” Ex. B, at 18.

17 UBER-MDL3084-000093397 (PRLOG000480).

18 This document is attorney-client privileged. The document is a Proposed Policy Standard
 19 Report. The first slide notes that the presentation is “ATTORNEY-CLIENT PRIVILEGED.” The
 20 Proposed Policy Standard Report was created on or about August 2018 to communicate in-house
 21 counsel’s recommendations and findings from their review of proposed policy changes. Ex. C, Baker
 22 Declaration. The document contains findings and advice from in-house legal counsel’s review of Uber
 23 policies and procedures concerning legal risk related to driver deactivation. Similar to the
 24 aforementioned documents, the trial court in *Jane Doe v. UTI* “sustain[ed] privileges as to 480.” Ex.
 25 B, at 26.

UBER-MDL3084-000093421 (PRLOG000489)

This document is attorney-client privileged. It is a “Safety Criteria Update Comms Plan” with each page bearing a red stamp stating “ATTORNEY-CLIENT PRIVILEGED.” This document was shared with and reviewed by Uber’s in-house legal counsel including, Nic Benincasa, Regional Associate Counsel, Regulatory; and Matt Burton, Legal Director II, Regulatory Development. This document sought legal advice, and conveys the thoughts, impressions, and recommendations of legal counsel regarding proposed policy changes. This document was for internal use only and not shared outside of the company.

CONCLUSION

Plaintiffs should withdraw their challenge and destroy the documents, and all copies, in compliance with PTO 14. Should Plaintiffs proceed with their challenge, Uber offers to meet and confer on June 3 or 4, 2024 at a mutually agreeable time.

DATED: May 30, 2024

Respectfully submitted,

SHOOK HARDY & BACON L.L.P.

By: /s/ Michael B. Shortnacy
MICHAEL B. SHORTNACY

MICHAEL B. SHORTNACY (SBN: 277035)
mshortnacy@shb.com
SHOOK, HARDY & BACON L.L.P.
2049 Century Park East, Ste. 3000
Los Angeles, CA 90067
Telephone: (424) 285-8330
Facsimile: (424) 204-9093

PATRICK OOT (Admitted *Pro Hac Vice*)
oot@shb.com
SHOOK, HARDY & BACON L.L.P.
1800 K St. NW Ste. 1000
Washington, DC 20006
Telephone: (202) 783-8400
Facsimile: (202) 783-4211

KYLE N. SMITH (*Pro Hac Vice* admitted)
ksmith@paulweiss.com
JESSICA E. PHILLIPS (*Pro Hac Vice* admitted)
jphillips@paulweiss.com
PAUL, WEISS, RIFKIND, WHARTON

& GARRISON LLP
2001 K Street, NW
Washington DC, 20006
Telephone: (202) 223-7300
Facsimile: (202) 223-7420

Attorney for Defendants
UBER TECHNOLOGIES, INC.,
RASIER, LLC, and RASIER-CA, LLC

EXHIBIT A

No.	Bates Nos.	Document/Presentation Title	Description of redacted page	Privilege claimed	Court's Ruling
1	2419	Safety Deactivations Overview	Fully redacted slide following slide titled "Incidents merit different treatment based on level of severity"	Not listed in Uber's privilege log	Overruled / Sustained
2	2422	Safety Deactivations Overview	Fully redacted slide following slide title "Policies are input into SIPS, which triggers DACT tickets"	Not listed in Uber's privilege log	Overruled / Sustained
3	2426 - 2428	Safety Deactivations Overview	Fully redacted slides following slide titled "Examples"	Not listed in Uber's privilege log	Overruled / Sustained
4	2430 - 2431	Safety Deactivations Overview	Fully redacted slides following slide titled "Planned Improvements"	Not listed in Uber's privilege log	Overruled / Sustained
5	6723	STAND for Safety Executive Committee, 9/14/18	Fully redacted slide following "S-RAD Update" slide. "S-RAD" is "data analysis that we use to help us better predict and prevent sexual violence." Alicia Kedambadi deposition, 64:15-16.	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
6	6726 - 6728	STAND for Safety Executive Committee, 9/14/18	Fully redacted slides following "Support policies"	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
7	6730 - 6736	STAND for Safety Executive Committee, 9/14/18	Fully redacted slides following "Sexual Assault Policy" slide	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
8	6740 - 6742	STAND for Safety Executive Committee, 9/14/18	Fully redacted slides following "Appendix" slide	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
9	6760	Safety On-platform Standards, 5/31/2016	"Drivers with unconfirmed L3s remain active". Examples are redacted.	Not listed in Uber's privilege log	Overruled / Sustained
10	6762	Safety On-platform Standards, 5/31/2016	Fully Redacted slide titled "Phase 1: Points system"	Not listed in Uber's privilege log	Overruled / Sustained
11	6773	Safety On-platform Standards, 5/31/2016	L1 Examples. Sexual misconduct example is redacted	Not listed in Uber's privilege log	Overruled / Sustained
12	6811 - 6812	SA/SM Standard Discussion, September 2018	Fully redacted slides following "Current Deactivation/Ban Metrics" slide	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
13	6817	SA/SM Standard Discussion, September 2018	Redacted example of inconclusive report that would lead to deactivation	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained

14	6818	SA/SM Standard Discussion, September 2018	Redacted example of inconclusive report that would not lead to deactivation	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
15	6845 - 6857	US/CAN Business Policy Leadership Check-In, 8/21/2017	Fully redacted slides following intro title slides	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
16	7045-7046	Overview of US&C Driver Deactivation Processes, August 2019	Fully redacted slides following slide titled "The dynamic deactivation threshold varies by driver tenure, driver rating and geography"	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
17	7050-7051	Overview of US&C Driver Deactivation Processes, August 2019	Fully redacted slides following the slide titled "DACT driver IPC - included contact types"	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
18	7063-7064	Overview of US&C Driver Deactivation Processes, August 2019	Fully redacted slides following the slide title "The standard takes into account the severity of the incident type"	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
19	7118 - 7123	Overview of US&C Driver Deactivation Processes, August 2019	Fully redacted slides following the slide titled "The types of communication to drivers vary by the type of complaint and business standard"	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
20	7137 - 7140	Overview of US&C Driver Deactivation Processes, August 2019	Fully redacted slides following the a slide discussing driver screening process	Presentation containing legal advice of counsel re: legal risk related to driver conduct	Overruled / Sustained
21	8211	US & Canada Business Standards, Follow Up Meeting High Priority Safety Policies	Action Item for Sexual Misconduct	Presentation containing legal advice of counsel re: safety policy issue.	Overruled / Sustained
22	8212	US & Canada Business Standards, Follow Up Meeting High Priority Safety Policies	"Pain Points" for Sexual Misconduct	Presentation containing legal advice of counsel re: safety policy issue.	Overruled / Sustained
23	8217	US & Canada Business Standards, Follow Up Meeting High Priority Safety Policies	Threshold analysis/strike proposal	Presentation containing legal advice of counsel re: safety policy issue.	Overruled / Sustained
24	8345- 8351	Deactivated Driver Sizing and Opportunity Update, April 2021	Fully redacted slides following intro title slide	Presentation containing legal advice of counsel re: safety policy issue	Overruled / Sustained
25	8353 - 8355	Deactivated Driver Sizing and Opportunity Update, April 2021	Fully redacted slides following "Appendix" slide	Presentation containing legal advice of counsel re: safety policy issue	Overruled / Sustained
26	8358	Safety Deactivation/Reactivation Principles	Bottom is paragraph is redacted on slide discussing safety deactivations	Presentation containing legal advice of counsel re: legal risk related to conduct	Overruled / Sustained

27	8396 - 8379	Overview of US&C Driver Deactivation Processes, December 2019	Fully redacted slides following slide titled "Drivers are deactivated when they reach three notations"	Not listed in Uber's privilege log	Overruled / Sustained
28	8426 - 8429	Overview of US&C Driver Deactivation Processes, December 2019	Fully redacted slides following slide titled "The types of communications to drivers vary by the type of complaint and business standard"	Not listed in Uber's privilege log	Overruled / Sustained
29	8559	IRT Urgent (IRT = incident response team)	Fully redacted slide following slide title "Sexual Assault"	Not listed in Uber's privilege log	Overruled / Sustained
30	8562	IRT Urgent (IRT = incident response team)	Fully redacted slide following slide titled "Stalking"	Not listed in Uber's privilege log	Overruled / Sustained
31	8568 - 8583	IRT Urgent (IRT = incident response team)	Fully redacted slides following slides titled "Incident Identification and application"	Not listed in Uber's privilege log	Overruled / Sustained
32	8599 - 8603	2022 Central Safety Planning (Personal Safety (SA/SM) Brainstorming Session	Fully redacted slides following slide title "Limitations on our Insights"	Not listed in Uber's privilege log	Overruled / Sustained
33	8695	Earner deactivation overview, December 2021	Risk rating criteria slide is redacted	Not listed in Uber's privilege log	Overruled / Sustained
34	8753	Introduction to DACT 3.0	Fully redacted slide following slide which says "We find a list of similar drivers to show, driver similar to this driver is indeed at high risks"	Not listed in Uber's privilege log	Overruled / Sustained
35	8764	Introduction to DACT 3.0	Fully redacted slide following slide discussing increase in "lift" for flagging more drivers under new modeling	Not listed in Uber's privilege log	Overruled / Sustained
36	8719	Personal Safety Strategy Brief, June 2018	Fully redacted slide following slide titled "Metrics Update"	Not listed in Uber's privilege log	Overruled / Sustained
37	8933	Safety Deactivation and DACT Deep Dive	Fully redacted slide following slide title "non serious incidents" which discusses driver deactivation	Not listed in Uber's privilege log	Overruled / Sustained
38	8934	Safety Deactivation and DACT Deep Dive	Partially redacted slide discussing DACT process and driver appeals	Not listed in Uber's privilege log	Overruled / Sustained
39	8935 -8940	Safety Deactivation and DACT Deep Dive	Fully redacted slides following slide discussing DACT process and driver appeals	Not listed in Uber's privilege log	Overruled / Sustained
40	8943	Safety Deactivation and DACT Deep Dive	Fully redacted slide following slide titled "What is a Policy Deviation process and How it works."	Not listed in Uber's privilege log	Overruled / Sustained

41	8950	Safety Deactivation and DACT Deep Dive	Examples redacted from slide titled "Our Safety Policies define what we allow in the platform while our Standards and Processes help us identify and deal with users who present a threat to the platform and to the safety of others"	Not listed in Uber's privilege log	Overruled / Sustained
42	8956	Safety Deactivation and DACT Deep Dive	Fully redacted slide following slide titled "DACT prevents incidents by flagging high risk users for account adjudication"	Not listed in Uber's privilege log	Overruled / Sustained
43	8958	Safety Deactivation and DACT Deep Dive	Fully redacted slides following slide discussing DACT process and driver appeals	Not listed in Uber's privilege log	Overruled / Sustained
44	8959 - 8964	Safety Deactivation and DACT Deep Dive	Fully redacted slides following slide discussing DACT process and driver appeals	Not listed in Uber's privilege log	Overruled / Sustained
45	8973 - 8984	Safety Deactivation and DACT Deep Dive	Fully redacted slides following "Appendix" slide	Not listed in Uber's privilege log	Overruled / Sustained
46	8991	Safety Deactivation and DACT Deep Dive	Fully redacted slide following slide titled "Review of DACT Evolution"	Not listed in Uber's privilege log	Overruled / Sustained
47	9006 -9007	Personal Safety Risks and Trends	Fully redacted slides following slide discussing old challenges	Not listed in Uber's privilege log	Overruled / Sustained
48	DAVISUBER_PRLO G000262	Re: Documents for Propose Zero Tolerance Changes	Document has not been produced. All individuals on e-mail string are non-lawyers	Email string seeking and providing legal advice of counsel re: user deactivation policy.	Overruled / Sustained
49	DAVISUBER_PRLO G000420	Re: [Review Requested] Sexual Misconduct Policy & Standard	Document has not been produced. All individuals on the e-mail string are non-lawyers	Email string seeking and providing legal advice of counsel re: user conduct issues.	Overruled / Sustained
50	DAVISUBER_PRLO G000421	Re: [Review Requested] Sexual Misconduct Policy & Standard	Document has not been produced. All individuals on the e-mail string are non-lawyers	Email string seeking and providing legal advice of counsel re: user conduct issues.	Overruled / Sustained
51	DAVISUBER_PRLO G000480	SA-SM Standard Discussion_1BBwwMY1v_vw2QIMHBFXYMdIAPbRwonl3- bPEZN4KB1g.pptx	Document has not been produced. SA & SM are "Sexual Assault" and "Sexual Misconduct" respectively	Presentation containing legal advice of counsel re: legal risk related to driver deactivation.	Overruled / Sustained
52	DAVISUBER_PRLO G000489	Safety Criteria Update Comms Plan_1P6A6gAXHJnk80bXa_n3gdDj1XOIQ6zTGjbGbmCNaCw.w.docx	Document has not ben produce, but title refers to safety criteria	Document containing legal advice of counsel re: safety policy issues	Overruled / Sustained
53	DAVISUBER_PRLO G000490	US & Canada Standard- Master External Fa_1AnmAbkBlbk0sh1YtwnB512wzsLwTI53nqUIAH0GrOxE.d.ocx	Document has not been produced, but title refers to standard. "Standards" are Uber's safety criteria	Document containing legal advice of counsel re: risk related to driver conduct	Overruled / Sustained

EXHIBIT B

REPORTER'S RECORD
VOLUME 1 OF 1 VOLUME
TRIAL COURT CAUSE NO. 2020-67824

3
4 JANE DOE,) IN THE DISTRICT COURT OF
5)
6 Plaintiff)
7 VS) HARRIS COUNTY
8)
9 UBER TECHNOLOGIES, INC.,)
10)
11 Defendant) THE 125TH JUDICIAL DISTRICT

16 | REPORTER'S RECORD

21 On the 21st day of August, 2023, the following
22 proceedings came on to be heard in the above-entitled and
23 numbered cause before the Honorable Kyle Carter, Judge
24 presiding, held in Houston, Harris County, Texas:

25 | Proceedings reported by machine shorthand.

1 A P P E A R A N C E S
23 Mr. Ross W. Evans
4 SBOT NO. 24064771
5 Mr. Jeffrey Wigington
6 SBOT NO. 00785246
7 WIGINGTON RUMLEY DUNN & BLAIR, LLP
8 601 Howard Street
9 San Antonio, Texas 78212
10 Phone: 210.487.7500
11 COUNSEL FOR PLAINTIFF12
13
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15
16
17
18
19
20
21
22
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24
25
Mr. Robert H. Ford
SBOT NO. 24074219
Ms. Whitney Wester
SBOT NO. 24080420
Ms. Melissa B. Carroll
BRADLEY ARANT BOULT CUMMINGS, LLP
600 Travis Street
Suite 4800
Houston, Texas
77002
Phone: 713.576.0300
COUNSEL FOR DEFENDANT UBER TECHNOLOGIES

1 I N D E X

2	AUGUST 21, 2023	PAGE
3		
4	Hearing commenced.....	4
5	Hearing concluded.....	30
6	Court reporter's certification.....	31
7		

8 EXHIBITS

9	No exhibits offered or admitted
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1 THE COURT: At this time the Court calls Cause
2 No. 2020-67824, Jane Doe versus Uber Technologies, Inc.
3 Counsel, please make your appearances for the record.

4 MR. EVANS: Ross Evans on behalf of plaintiff,
5 Jane Doe.

6 MS. WESTER: Whitney Wester and Robert Ford on
7 behalf of Uber Technologies.

1 discussed issues that the parties were trying to work through.
2 We took up the matter of certain documents that the parties
3 felt would be, expressly part of the mandamus, would be
4 subsumed by the issues that were being raised at the Texas
5 Supreme Court and therefore documents were separated and
6 withheld on the basis of the pending ruling before the Supreme
7 Court. Now, that the Court is ruled, I will follow up and ask
8 the parties what the status of those documents were. The
9 parties represented to me that all documents that were the
10 subject of the mandamus have been provided and that all the
11 documents that were withheld subsequently, based on the issues
12 raised in the mandamus, have been provided as well and that the
13 parties have undertaken an effort to streamline today's
14 hearing. They are only looking for the court to rule on two
15 categories of documents, those that are protected by
16 attorney-client privilege, and they pointed to some extrinsic
17 evidence that they want to give me, i.e. affidavits from the
18 parties involved in those documents, the creation of those
19 documents. And then there's documents that the parties claim
20 are outside of the geographic scope that's involved in this
21 case.

22 Just for the record, as I understand it, outside of the
23 geographic scope, this case involves a claim by a Jane Doe
24 against Uber Technologies for damages sustained as a result of
25 an alleged sexual assault in the State of Texas and we are

1 Looking at and the parties are trying to discover information
2 about criteria used by Uber to conduct background checks,
3 information that Uber has to determine whether or not somebody
4 should continue to be a driver, things of that nature. The
5 defendants objected saying that while what happened in Texas
6 may be relevant, and I say may because I don't think they want
7 to concede that entirely, but for purposes of summarizing the
8 argument, while what happened in Texas may be the subject of
9 the inquiry here, what happens in other countries' around the
10 world is different and it shouldn't be part of the discovery in
11 this case. And so, what one of the categories is the category
12 of documents that are related to policies and procedures that
13 Uber has that it's outside of the geographic scope is the
14 argument of the defendant's i.e. outside of the relevant area
15 of inquiry, specifically it states other countries' policies
16 and procedures, is that accurate.

17 MS. WESTER: It is, Your Honor. And I would
18 just add one thing, that today's document that we're talking
19 about outside of the geographic scope. They're actually
20 documents that are discussing a specific prior incident so a
21 specific complaint made by an Uber rider or driver but those
22 complaints and their resolution are either in a state other
23 than Texas or any country other than the United States.

24 THE COURT: Thank you for that clarification. I
25 wanted to go on the record and counsel wanted to go on the

1 report so we are on the same page with respect to any rulings
2 that the court may make today. I'm looking at these two
3 categories of documents. Counsel, anything you want to add?

4 MR. EVANS: Yes, Judge Carter. With respect
5 to, we'll call them the OSI's, other similar instances, outside
6 of Texas, they are embedded with safety presentation. And so
7 what it looks like is, we'll go through a safety presentation
8 or some risk analysis presentation, and then the whole page is
9 blanked out or redacted and I can't tell what's in it. Counsel
10 has represented to me that it might involve other similar
11 incidents of sexual assault in a different state or even in
12 England but I want to get inside the mind of the Uber to
13 understand what they're saying about these incidents and why.
14 That's why I think it's important.

15 THE COURT: Well, here's my take. If I
16 understand what you're saying, and I have not looked at it yet
17 but I want to kind of go out there and tell you what my
18 thoughts are. If it's another incident but it's couched in
19 terms of a presentation that's been done to train other
20 employees or to train people at Uber, I'm inclined to say
21 that's something that I'm going to look at and I'll look at
22 what the contents are and make a determination. It's something
23 they're using to train their employers. I think it's part of
24 the presentation material to train employees and likely
25 discoverable and what we're looking at, again, there's a

1 difference between discoverability and admissibility. I want
2 to deal with what's discoverable right now and I recognize that
3 one of the objections is the information is not likely to lead
4 to admissible evidence but at the same time, the law recognizes
5 that there is a distinction between that which is discoverable
6 and that which is admissible. So to the extent that you're
7 evidentiary objection might be 403 that it's irrelevant, that
8 it's prejudicial, things like that, we'll take that up at the
9 time of trial and we'll look at what we're going to show the
10 finder of fact. Okay, so anything else?

11 MR. EVANS: Yes, Your Honor. On the
12 attorney-client privilege issue, it might be best to go through
13 each document. We only have ten total documents to look at.
14 We narrowed it from 50 to 10.

15 THE COURT: Okay.

16 MR. EVANS: But I'll tell you, some of them I
17 have very limited insight to these but based on their privilege
18 log and the individuals identified on that certain e-mail
19 chain, none of them are lawyers and so that would be my
20 question as to how you can claim privilege over that if there's
21 not a single lawyer on the document. Where there might be a
22 lawyer on one of them, I'm not sure if there are, just having a
23 lawyer on a e-mail chain doesn't necessarily make it
24 attorney-client privilege. Beyond that, it's really hard for
25 me to comment because I just simply can't see the contents of

1 any of the e-mails. The other thing I'll say, too, is within
2 certain presentations, like, training presentation, if they
3 have a schizophrenic redaction-type approach where they will be
4 charged in a presentation that's a AC privilege in red bold at
5 the top of the chart or an exemplar, and then for whatever
6 reason that's not redacted, but the next page you'll have
7 something in there which essentially that's the same stamp but
8 it's redacted so I can't figure out why they're taking that
9 schizophrenic approach. On one hand, you can call it a waiver.
10 I'm not even going to wade into those waters. I think it's
11 better just to have the Court look at it. You'll see some of
12 these presentations where when we get into them, I don't
13 understand how they necessarily claim privilege. Let's assume
14 that it was attorney-client privilege at some point where, you
15 know, they are seeking legal advice, then you take that
16 information and you put it into a chart and you disseminated to
17 other employees for training purposes, where does it end? And
18 so, I guess, we need to be able to look at the information. If
19 the court does, maybe we can have a conversation about it then,
20 but to me, it just seems like there's this overuse of this AC
21 privilege log.

22 THE COURT: Why don't we just wade into it? Do
23 y'all have the ten documents that you would like me to look at
24 the attorney-client?

25 MS. WESTER: I do, Your Honor. May I approach?

1 THE COURT: Please.

2 (Attorney approaches bench)

3 MS. WESTER: I have two notebooks for Your
4 Honor, one, the un-redacted versions and one notebook is the
5 redacted documents and then Mr. Evans has a copy of the
6 redacted notebook so he can follow along as well. And all the
7 applicable declarations that support the attorney-client
8 privilege are also in that notebook as well, Your Honor.

9 THE COURT: Does your notebook have this Exhibit
10 A?

11 MR. FORD: It does not.

12 THE COURT: Counsel, this is interesting because
13 I have a affidavit that's executed, it looks like by a
14 DocuSign. It's not sworn to before a notary and specifically
15 it's executed it's represented in blank County of State of
16 blank. But it was executed in Cabos San Lucas County, State of
17 Mexico. That's something I haven't seen before.

18 MR. FORD: We try to keep things spicy for
19 Your Honor, no pun intended. Apologies for any un-orthodox
20 presentation, Your Honor. As you know, it can be in the form
21 of a declaration under the CPRC so we had to avail ourselves of
22 that and under the Uniform Electronic Transaction Act in Texas,
23 DocuSign actually is permissible. But as you can see, the
24 declarant, they were indisposed at the time we needed this
25 declaration.

1 THE COURT: Thank you very much.

2 MR. FORD: Yes, Your Honor.

3 MR. EVANS: Judge Carter, may I approach and
4 show you a chart that might help you?

5 THE COURT: Yes, sir.

6 (Attorney approaches bench)

7 MR. EVANS: This is a chart. This is where we
8 started. It lists everything that was originally before the
9 court. The items I have circled are part of the ten documents
10 that are at issue.

11 THE COURT: Okay.

12 MS. WESTER: Do you have another copy of that
13 chart because I don't --

14 MR. EVANS: I think I've got a copy.

15 MS. WESTER: But is it original exhibit A?

16 MR. EVANS: It is.

17 MR. FORD: Your Honor, if it pleases the Court.
18 There are about three or four documents that we appreciate the
19 legibility could be better. There was a version that we
20 received from the client. We literally this morning were able
21 to get them to send us what seems to be a more legible copy but
22 we literally received it, despite her request, this morning
23 while we were on our way over. I'm happy to tender my Ipad to
24 the Court if it would aid the Court at all.

25 THE COURT: Thank you very much. I may have

1 some follow-up on it. I don't have my readers with me or my
2 magnified glass but I appreciate what you're saying. If I need
3 to follow-up on it, I will.

4 MS. WESTER: And Judge, those four documents on
5 the front I did include a blown up version behind the first
6 page. But again, the legibility is not great in quality.

7 THE COURT: I'm happy to know it's not me.
8 Thank you. Okay. I've gone through the documents that are
9 included in the binders that you handed to me. I've got a few
10 questions based on the information that's been provided. I've
11 got three declarations and given this declaration, the Baker
12 declaration and the Freigoval declaration, F-R-E-I-G-O-V-A-L .
13 All of those declarations, none of them appear to be from a
14 lawyer. So none of the three parties that drafted or signed
15 theses declarations are actually attorneys, correct?

16 MS. WESTER: That's correct, Judge.

17 THE COURT: Okay. And so as I go through this
18 information, start with the first four exhibits, these are the
19 slides that we talked about earlier that are hard to see.
20 These are presumably a part of a presentation that's what's
21 referenced in the Freigoval declaration. I believe that -- let
22 me make sure we're talking about the right Bates label
23 documents. The first four are based on geographic scope,
24 correct?

25 MS. WESTER: Correct

1 THE COURT: And not a attorney-client
2 privilege.

3 MS. WESTER: Correct

4 THE COURT: Okay. So the first four, one, two,
5 three and four, I'm going to overrule the objection and order
6 that they be produced. Now we're taking a look at the
7 attorney-client issue and I've got Freigoval.

8 MR. FORD: Your guess is as good as mine.

9 THE COURT: And so I've got two documents behind
10 that gentlemen's declaration. I've got the Gibbens declaration
11 with two documents behind it and the Baker declaration with
12 another two tabs behind it. And so this is interesting, right,
13 because I've got two slides and these have been completely
14 withheld. These are not redacted and provided. These have
15 been completely withheld pursuant to attorney-client privilege.
16 And counsel, what they're arguing to me is that these slides,
17 based on the declaration of Mr. Friegoval, these slides were
18 created to facilitate the rendition of professional legal
19 service, mainly to obtain legal advice from Uber's inhouse
20 counsel on the proposed safety policy. The safety risk slide
21 contains advice and proposals from inhouse legal counsel to
22 other and Uber employees. That, I don't know of as I sit here
23 today because all I've got are the slides. And so we got a
24 witness that's testifying about what the contents of the slide
25 are and the purposes of this slide. I don't know. I don't

1 have any evidence other than this statement by the client that
2 what these slides were to be used for. I do see
3 attorney-client privilege confidential legal advice to counsel
4 on the actual document but, I guess, is that something that
5 y'all added after the fact?

6 MS. WESTER: It is not, Your Honor. That slide
7 was actually created with those stamps on it. And if I can
8 provide a little bit of additional context, what I'm gleaning
9 from the face of the document itself is discussing a proposed
10 change and so that would be where Uber would go to their legal
11 counsel and say, please advise us, everybody on board with that
12 change, what is your advise about that change, and that's
13 what's reflected at least in this slide that we're looking at.

14 THE COURT: And that's my question, right, is
15 because what you just said is, suppose of what they do. Some
16 people may not do it that way. They may just have people at
17 the office that work on a policy and procedure and make a
18 determination and so I'm looking for where the communication to
19 the attorney is, where are the request for advice is, where the
20 attorney's advice has been added to or included in this
21 document? Something to help me get to the answer that you're
22 arguing to the Court that is, the purpose of this was to come
23 up with a new policy and procedure and you're going to run it
24 by legal. I don't see where we've done that. I just see the
25 slide itself.

1 MS. WESTER: And Judge, I think our argument
2 is based on from the face of the document itself, under the
3 portion that says legal, and so I don't believe there's
4 additional contact that would aid the Court in that
5 determination. We're just going on the face of the document
6 and the declaration, Your Honor.

7 MR. EVANS: Are we talking about the dates
8 ending in 480?

9 THE COURT: 6724.

10 MR. FORD: The only other supplementation I
11 would offer, Your Honor, is of course, in Texas under Rule 503d
12 D as in Delta, the privilege extends to communications,
13 confidential communications were made for the purpose of
14 facilitating rendition of professional legal services when
15 those communications are and, I quote, between the clients
16 representatives or between the client and the client
17 representative and so that's often a nuance of the privileges.
18 It's tough to tease out admittedly but I would offer, as I
19 believe Ms. Wester is offering, that even though it is not
20 apparent from this document that a lawyer is copied on it, for
21 instance, the privilege under Texas law is broad enough and
22 often does encompass communications among the clients
23 representatives to the extent those communications are being
24 made to facilitate the rendition of professional legal
25 services.

1 THE COURT: Thank you very much.

2 MR. FORD: Yes, Your Honor.

3 MR. EVANS: Judge, if I could offer something on
4 this 6724. It appears to be part of a presentation called
5 Stand for Safety Executive Committee. There was a presentation
6 at some executive level that's all I can glean from that. The
7 presentation looks like it's an internal presentation updating
8 everybody on safety efforts, not necessarily like it's an
9 ongoing conversation with attorneys with Uber. Their rendition
10 of legal services.

11 THE COURT: Well, that's my question, right.
12 And so you're arguing it from the standpoint of not being able
13 to really see the documents but to the extent that you can see
14 a title or a context with other documents that have been
15 provided. I need to know what the law is and I've been given a
16 generality, you know, it's something that people working at a
17 business are doing for the purpose of ultimately receiving
18 legal advice, then the respondents, what the defendants are
19 saying is privilege. I want to come down on what the law says
20 specifically and go from there. To the extent that I've got
21 kind of work in progress documents and there's ultimately some
22 final, this is what our policy and procedure is regarding X, Y
23 and Z. I think that would be sufficient. Do y'all have that?

24 MR. EVANS: We have a number of policies that
25 have been produced that appear to reflect what their

1 deactivation criteria were in different years including 2018,
2 the year of our incident.

3 MS. WESTER: And, Your Honor, looking at this
4 slide 6724, I don't know if this particular program or policy
5 was ever actually put into place or has a final version. I can
6 tell from this slide that it's in the process and that's why
7 they're seeking legal advice. I don't know that its the final
8 version of that program.

9 THE COURT: I'm looking at some of the others
10 I'm more focused on at the moment. I'm just going to rule that
11 I think that 6724, I'll sustain the privilege objection. 8719,
12 I'm overruling the privilege objection 36.

13 MS. WESTER: And Your Honor, I can provide
14 additional context on the one ending in 420, if you'd like, as
15 well as 421, if that would be helpful.

16 THE COURT: Go ahead.

17 MS. WESTER: So Your Honor, both of these are
18 e-mail chains and to Mr. Evans' point, the e-mail at the very
19 top, the two in the front are not from legal counsel Uber. But
20 if you look down and if you look at Bates stamp Davis Uber
21 underscore PR Log 000420, the very bottom of that first page,
22 you see Maureen, she is an attorney with Uber and she is the
23 one that ends up stamping this conversation as privileged. And
24 also, if you read the first sentence of her e-mail under that,
25 it's clear that she is providing legal advice and asking them

1 to keep her updated for the purposes of providing legal advice.
2 If you look to the next document which is Bates stamped Davis
3 Uber underscore PR log 00421, the top e-mail on that chain is
4 different but if you look down at the bottom, you see that same
5 e-mail from the same person and then right after that e-mail,
6 is consistent with the document ending in 420.

7 THE COURT: 420 and 421, I'm going to sustain
8 the privilege claim.

9 MR. EVANS: If I could, I want to clear the
10 air on this. I was only going off the individual identified on
11 the e-mail chain, on the privilege log that was produced, this
12 is not this lawyer that did not appear on the privilege log. I
13 did not want to misrepresent to the Court. From my
14 perspective, it was just Roger Kaiser and Catherine Gibbons.
15 This is the first time I learned there was a lawyer on that
16 chain.

17 THE COURT: I appreciate that. And frankly,
18 this happens frequently in terms of what I get asked to review
19 for privilege and it being documents from a larger business
20 that have a number of people on the chain. I usually will see
21 the to/from, the universe of people that are CC'd on it like we
22 get to in some of these other documents, but in these you have
23 to go back down further as to who was on there. But I'm going
24 to sustain privilege because I think that it's warranted based
25 on what I see and counsel taking up no issue with what you

1 said. Now, we're to the remaining 262 and 480.

2 MS. WESTER: And Your Honor, I believe 262 is
3 going to be another one of those situations where Mr. Evans is
4 unaware that there was an attorney on the chain. If you could
5 look at the fourth page of document ending in 262. Next from
6 the bottom, it talks about looping in someone named Scott.
7 Scott is an attorney with Uber. If you look at the sentence
8 before they loop in Scott, they discuss how the chain is
9 intended to give him information so that they can have a
10 discussion in person. You'll also see where they identify
11 Scott as counsel in the Safety Department.

12 THE COURT: Thank you very much. I want to ask
13 you a question about the people that are included on this
14 e-mail. One of the questions that we've had during discovery
15 has been, who are the right people to talk to about what the
16 policy and procedures are and what's your contention? One,
17 have you resolved that issue? Do you know based on the
18 information you've provided? I think that what I'm asking is,
19 if I agree that it's privileged based on the attorney being
20 included on this, you've got a number of other individuals that
21 are working over at Uber that are a part of trying to come up
22 with and formulate a policy and procedure related to the
23 subject matter that we're all here about today, not
24 notwithstanding the privilege aspect of it. Is it your contention
25 that the individuals identified in this e-mail chain are

1 subject to privilege as well or have you provided that
2 information to counsel?

3 MS. WESTER: Judge, I do believe that in this
4 chain e-mail they are subject to privilege because they would
5 be representative of Uber and they are providing information
6 for Scott to discuss in person later on and get legal advice
7 from. As far as the specific policy in this e-mail, give me
8 just one moment, Your Honor, if you don't mind. Your Honor, I
9 don't believe this e-mail is discussing its policy that's
10 relevant to this case. I believe it's discussing a drug and
11 alcohol policy. Okay.

12 THE COURT: Counsel, I've cut you off. I don't
13 want you to talk about what is contained in these documents.

14 MS. WESTER: Thank you, Your Honor.

15 THE COURT: Here's my take on it. I think
16 that the content, the substance of this is privileged. I think
17 that all of the people that are included in the discussion are
18 witnesses and have knowledge of relevant facts and their
19 identity should be disclosed in response to request for
20 disclosures with the statement in earnest about what their role
21 is and so if counsel wants to talk to them, counsel can go and
22 talk to them. Now, here we've got, again, it looks like
23 something that the Court is going to sustain privilege on. I
24 do believe that the identity of the parties that are involved
25 in the process should be provide in response to disclosures.

1 MS. WESTER: And Your Honor, if I could just
2 kind of go down that road a little bit further. I think it's
3 difficult for us to understand what policies would be
4 considered relevant to this case when you're talking about a
5 technology company that has obviously a different policy for
6 hundreds and if not thousands of issues. And so if it's not a
7 policy directly related to sexual assault, sexual misconduct,
8 or any other facts that we agree made the basis of this
9 lawsuit, to what extent do we need to disclose persons that
10 make policies not involved in the incident in this case?

11 THE COURT: I am going to order you to disclose
12 everybody as well. I don't want to tell you now, here's a
13 haystack and then that is going to be our one person that's on
14 point with the issues involved in this case. So, I guess, what
15 I'm suggesting is, and I think this is a good place to start,
16 right. If they're involved in the discussion of making
17 policies and procedures that relate to conduct or in this
18 instance determining whether or not a driver should be allowed
19 to continue on as a driver, I would be hopeful that you
20 wouldn't have a whole different cast of characters depending on
21 which different allegation is made. I've got some discussion
22 here about particular policy and some individuals that are part
23 of that discussion. I would presume that those same
24 individuals would be part of the discussion involving other
25 conduct. But that's something that counsel can, once

1 identified, can follow-up on either through a conference call
2 with you or y'all can agree that an individual didn't have
3 anything to do with a certain something that's of issue in this
4 case. And they can decide whether or not they want to go
5 through and conduct any additional discovery. But I want to
6 make sure that what we're not doing is saying, now that they're
7 privileged, all of the people that would have knowledge about,
8 in this instance, the standards that Uber uses to deal with the
9 sexual assault complaint and what they do following that
10 complaint, that those decision makers need to be identified so
11 that if counsel wants to go and have a follow-up discussion
12 they can. That's my thought. I mean, I would think that they
13 would be relevant, notwithstanding the fact what the Court's
14 ruling is on the actual document itself.

15 MS. WESTER: And Your Honor, I completely
16 understand the Court's position on that. I will say from
17 Uber's position, opposing counsel has had a chance to depose
18 the Head of Global Women's Safety to discuss who are the people
19 that make these policies that make these decisions. That
20 information has been made available elsewhere. It's just, I
21 can't guarantee that the people in this specific e-mail were
22 disclosed as people that made decisions related to sexual
23 assault and not sure that there is that crossover that we're
24 all kind of presuming there would be.

25 MR. FORD: And I would just supplement to

1 everything that Ms. Wester has said. Our understanding, and I
2 welcome counsel if you have a contrary view, I do think this is
3 important that we get this straight. Our understanding is that
4 you have now had, subject to your re-deposition of Mr. Kyser in
5 a matter of days, that you have had ample opportunity to depose
6 corporate reps, to depose a number of people in our safety
7 apparatus. And I'm just being honest because I don't think
8 this was initially an issue for plaintiffs and we had several
9 hearings about it and you all have deposed and now are set to
10 re-depose a corporate rep among other reps in high places,
11 officials, regarding what the policies and protocols are. I
12 just want to make sure because I'm concerned that this could
13 tilt away where, you know, obviously, we are going to whatever
14 you tell us to do, Your Honor, but if we supplement our
15 disclosures, are we talking about the scenario where we're
16 re-opening discovery and deposing a boatload of witnesses?
17 That's my only concern, Your Honor, particularly given the
18 preferential trial setting on November 6 and obviously all the
19 discovery that's transpired today. I know it seems like
20 putting you on the spot and I'm honestly not trying to.

21 MR. EVANS: I think disclosures with
22 specificity as to what the roles would do, will be helpful but
23 here's my frustration. Way back in May of 2020, Judge Carter
24 -- this is before you guys were involved -- he ordered Uber to
25 identify people in charge of safety policies and procedures and

1 Uber said, it's only Roger Kyser. That's the only person they
2 identified. And then we had to go and get on LinkedIn and
3 literally find names of people who look like good candidates to
4 depose because Uber wasn't becoming forthcoming about it. A
5 lot of these individuals we stumbled upon was because we got an
6 order from Judge Carter saying, yes, it looks like in all
7 probability they had something to do with this. And so through
8 that process there was a lot of hit and miss when we deposed
9 people to the extent that Uber's liability expert had in her
10 handwritten note that we deposed a bunch of nobodies. And it
11 was frustrating because you would hope that Uber at some point
12 would step in and say, hey, we're going to stop you from
13 spending all this time and effort. And actually by who,
14 meaning? So that's for me to say when we get these names
15 disclosed to us, we're not interested in repeating that
16 process. But if there's something that comes up and I tell
17 you, Rob, it sounds like there's someone we need to depose,
18 we'll let you know. We don't intend to drag this out. If
19 someone comes up and they've got information we might need to
20 talk to them.

21 MR. FORD: Okay. And I feel and I appreciate
22 that. I also appreciate you clarifying that we were not
23 involved during this time period. I will say based on the
24 correspondences that I have seen dating back to that time and
25 correspondences that you and I have exchanged, I do know there

1 was an attempt on our part, and I say this for your benefit and
2 for the Court's benefit as well, there was an attempt on Uber's
3 part to invite y'all on number of occasions to start with a
4 corporate rep so that you could identify which persons in our
5 safety apparatus were actually responsible for crafting and
6 managing policies related to sexual assaults like the one made
7 the basis of this case. That opportunity was never really
8 seized until much, much later down the road after Uber had to
9 try to find someone. So I hear you. And I'm sorry, Your
10 Honor, I don't want to waste Your Honor's time. I started
11 getting a little concerned when I saw how this might play out
12 given the schedule that we have. But I hear you, Your Honor.
13 We will absolutely supplement our disclosures as ordered by the
14 Court and we will do that with alacrity. That's all we can say
15 to that.

16 | THE COURT: Thank you.

17 MR. FORD: Yes, Your Honor. And again, I
18 apologize for what ended up being a side bar.

19 THE COURT: So at this time, I find 262,
20 document ending in 262, I am going to sustain privilege. Now,
21 480.

22 MS. WESTER: Your Honor, my understanding that
23 480 is a PowerPoint that the main topic of which is an overview
24 of policies and procedure conducted by inhouse counsel with
25 Uber and so the information contained in these slides would

1 have been the results of legal investigation and legal overview
2 and would be a communication with the client or client
3 represented for facilitating that legal service in that they
4 are making suggestions or giving the client their findings
5 based on the review they conducted.

6 THE COURT: I'll sustain privileges as to 480.
7 Now, 480. There's a couple of different instances where I've
8 got what's represented to be presentations, right, that are
9 being done either by counsel or to counsel or to the Board of
10 Directors to enable the parties to come up with something
11 that's obviously in conjunction with counsel. If you've got
12 some exception to that let me know but as we sit here today
13 I've got their affidavits saying what the purpose of the
14 document was, and then the document itself. And so the
15 evidence that I have suggest to me that the document would be
16 subject to privilege at this time. If there's something you
17 want to bring to my attention feel free to do so and I'll take
18 a look at it. I think that's everything.

19 MR. FORD: Just one last housekeeping matter,
20 Your Honor. We have entered into a Rule 11 to pass what would
21 have been this Friday's hearing on Uber's traditional motion
22 for summary judgment and Uber's motion for leave to designate
23 an expert. We did file a note per the court staff's direction
24 requesting an off day docket at the court's indulgence. An off
25 docket day, forgive me, Your Honor, not enough coffee this

1 morning. At the Court's indulgence and subject to opposing
2 counsel's availability to have those motions heard. We would
3 very much like to have that done in September, if it pleases
4 the Court, if the Court has availability to accommodate us. We
5 know we are asking a lot and the Court has been so flexible.
6 We are here on an off docket day and that's not lost on us.

7 THE COURT: I'm happy to accommodate that
8 request. Let me take a look at what I have available. I have
9 a trial that's assigned out there right now and they're doing
10 some last minute work before we start pretrial tomorrow. As I
11 sit here right now I don't know when we're calling the jury on
12 that matter. We have some things to discuss at pretrial. That
13 case is represented to be four to seven days, the other side is
14 four to seven weeks. We're somewhere in the middle. So we've
15 got some work to do that I'm concerned about interfering.
16 We've got a dead week that week of Labor Day as well. You've
17 already got your response on summary judgment on file?

18 MR. EVANS: No, Your Honor.

19 THE COURT: Do it now. Get your response on
20 file. Go ahead and get with the clerks. Set a date.

21 THE COURT: Do you want to take up the expert
22 issue?

23 MR. FORD: Yes, just to consolidate our steps,
24 Your Honor, if it pleases the Court.

25 THE COURT: That's fine.

1 MR. FORD: And again, we do appreciate it, Your
2 Honor. We know you and your staff are very busy and we thank
3 you for accommodating us.

4 THE COURT: I'm happy to do so. I want to get
5 through this case and get everybody ready. All right. So I've
6 got a summary judgment out there. We've gotten through this
7 discovery for today. We've got a request that we allow you to
8 late designate an expert. If I do that, they're going to get a
9 deposition.

10 MR. FORD: Absolutely, yes.

11 THE COURT: That's my thought. Frankly, we're
12 still 90 days out.

13 MR. EVANS: And we have not filed a response to
14 that yet because it hasn't been set. If they late designate
15 expert, we'll call one of our rebuttal experts on the same
16 topic.

17 THE COURT: Sounds good to me.

18 MR. FORD: Obviously we have no objection to
19 that.

20 THE COURT: There we go. Listen, we're far
21 enough out that I'm kind of the mindset to say, okay, I'll
22 allow a late designation or substitution subject to of course
23 there being able to depose that individual and if they want to
24 do a rebuttal expert in response to yours, that's fair game,
25 too. That's where I am on that. But, we still have a summary

1 judgment. Have y'all gone and talk to a mediator yet?

2 THE COURT: Okay. Are those discussions
3 impasse or there's still some discussion?

4 MR. FORD: An impasse was declared, Your
5 Honor, but I think there's still talking to be done here. Take
6 that for what it's worth.

7 MR. EVANS: The case is taking an interesting
8 turn where for the first time in my career I've someone make an
9 offer of settlement under that rule that was invoked by Uber
10 and we made our own counter under that same rule. So I think
11 the parties probably want to try to get it done but --

12 THE COURT: I recognize that certain things may
13 need to happen in terms of everyone making sure that they
14 understand where they are going to be at trial before the
15 parties can appreciate, fully appreciate what's involved in the
16 mediation process. I'm happy to do any work that y'all need me
17 to do in order to try to facility everybody's understanding of
18 what the presentation at trial is going to look like so that
19 they can advise their client and sit down and see what they
20 want to do okay. I will figure a summary judgment out there
21 that might be something y'all would like to get heard. The
22 sooner y'all can do that probably the better. Just reach out
23 to the Court's staff. They may not be able to give you
24 tomorrow. They will tell me a little bit about what our next
25 couple of weeks will be.

1 MR. FORD: Maybe it's best that I probably check
2 in tomorrow or the day after tomorrow.

3 THE COURT: Yes, sir. Let me give you these
4 back. I made my rulings on the issues.

5 MR. EVANS: We have a corporate rep deposition,
6 the second one next Friday, can we have the new production
7 before that? The un-redacted.

8 MS. WESTER: Yes.

9 THE COURT: And also get over in the next ten
10 days all the supplements of disclosures to include anybody else
11 that's knowledgeable with relevant facts and specifically those
12 people that have been part of the process and that way counsel
13 can ask the corporate rep any follow-up. That may answer all
14 the questions and alleviate the need to conduct any further
15 discovery but I think he's entitled to that information.

16 Anything else that I can do for y'all today.

17 MR. FORD: No. Thank you, Your Honor.

18 MR. EVANS: No. Thank you.

19 THE COURT: Thank you.

20 (Hearing concluded)

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1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS)

3 COUNTY OF HARRIS)

4 I, Elizabeth Cordova, Deputy Court Reporter in
5 and for the 125th District Court of Harris County, State
6 of Texas, do hereby certify that the above and foregoing
7 contains a true and correct transcription of all
8 portions of evidence and other proceedings requested in
9 writing by counsel for the parties to be included in
10 this volume of the Reporter's Record in the above-styled
11 and numbered cause, all of which occurred in open court
12 or in chambers and were reported by me.

13 I further certify that this Reporter's Record of
14 the proceedings truly and correctly reflects the
15 Exhibits, if any, admitted by the respective parties.

16 I further certify that the total cost for the
17 preparation of this Reporter's Record is \$266 and was paid by
18 Mr. Robert Ford.

19 WITNESS MY OFFICIAL HAND this 1st day of September,
20 2023.

21 _____
22 /s/Elizabeth Cordova
23 ELIZABETH CORDOVA, Texas CSR 9039
24 Expiration Date: 12/31/24
25 Official Court Reporter
 125th District Court
 201 Caroline
 Houston, Texas 77002
 (281) 865-2723

EXHIBIT C

CAUSE NO. 2020-67824

JANE DOE

V.

**UBER TECHNOLOGIES, INC.
AND MANUEL ANTONIO
PORTILLO**

§ § § § § § § § § § § §

**IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
125TH JUDICIAL DISTRICT**

#170-2023
8.10.49 PM
File & Serve Texas™



DECLARATION OF MATTHEW BAKER

1. My name is Matthew Baker, I am over the age of 18, I am of sound mind and body, and I am capable of making this Declaration. I am offering this Declaration in the above-captioned cause in support of Defendant Uber Technologies, Inc.’s (“Uber”) Response in Opposition to Plaintiff’s Motion to Compel.

2. I am a Senior Program Leader in Safety Support at Uber. I was first employed by Uber in July 2014 and have worked in safety support for the past seven years. In my position, I am responsible for ensuring that appropriate safety response procedures are in place. The facts set forth herein are based on my own personal knowledge and are true and correct.

3. I am familiar with and have reviewed the unredacted document that has been Bates-Labelled for purposes of this litigation as **DAVISUBER_PRLOG000262** (the “Zero Tolerance Policy Email”). I am also familiar with the circumstances surrounding its creation and communication. The Zero Tolerance Policy Email was created on or about April 2017 to facilitate the rendition of professional legal services to Uber, namely, to obtain legal advice from Uber’s in-house counsel on proposed policy changes. The Zero Tolerance Policy Email contains correspondence from Uber’s in-house legal counsel to other Uber employees detailing their impressions, thoughts, and advice with respect to the proposed policy.

4. I am familiar with and have reviewed the unredacted document that has been Bates-Labelled for purposes of this litigation as **DAVISUBER_PRLOG000480** (the “Proposed Policy Standard Report”). I am also familiar with the circumstances surrounding its creation and communication. The Proposed Policy Standard Report was created on or about August 2018 to facilitate

the rendition of professional legal services to Uber, namely, to obtain legal advice from Uber's in-house counsel on proposed policy changes. The Proposed Policy Standard Report contains findings and advice from Uber's in-house legal counsel's review of Uber's policies and procedures and was presented to other Uber employees.

My name is Matthew Baker, my date of birth is 10/12/1986 and my address is 1515 3rd St, San Francisco, CA 94158-2211. I declare under penalty of perjury that the foregoing is true and correct.

*Executed in Cook County, State of Illinois, on the **28th** day of April, 2023.*

Matthew Baker

Matthew Baker

EXHIBIT D

CAUSE NO. 2020-67824

JANE DOE

V.

**UBER TECHNOLOGIES, INC.
AND MANUEL ANTONIO
PORTILLO**

§ § § § § § § §

**IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
125TH JUDICIAL DISTRICT**

#170-2023
8:10:49 PM
File & Serve Texas™



DECLARATION OF CATHERINE GIBBONS

1. My name is Catherine Gibbons, I am over the age of 18, I am of sound mind and body, and I am capable of making this Declaration. I am offering this Declaration in the above-captioned cause in support of Defendant Uber Technologies, Inc.’s (“Uber”) Response in Opposition to Plaintiff’s Motion to Compel.

2. I am Director and Global Head of Platform Safety, Identity, Risk & Payment, Community Operations at Uber. I was first employed by Uber in May 2018 and have worked in safety support for the past five years. In my position, I am responsible for ensuring that appropriate safety response procedures are in place. The facts set forth herein are true and correct and are based on my own personal knowledge.

3. I am familiar with and have reviewed the unredacted document that has been Bates-Labelled for purposes of this litigation as **DAVISUBER_PRLOG000420** (the “Safety Policy Email”). I am also familiar with the circumstances surrounding its creation and communication. The Safety Policy Email was created in or about August 2019 to facilitate the rendition of professional legal services to Uber, namely, to obtain legal advice from Uber’s in-house counsel on proposed safety policies. The Safety Policy Email contains correspondence from Uber’s in-house legal counsel to other Uber employees detailing their impressions, thoughts, and advice with respect to the proposed policy.

My name is Catherine Gibbons, my date of birth is 08/02/1989, and my address is 1515 3rd St, San Francisco, CA 94158-2211. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Cabo San Lucas County, State of Mexicos, on the 27th day of April, 2023.

Catherine Gibbons

Catherine Gibbons